



Advisory opinion on whether a nun's cell can qualify as her home

The European Court of Human Rights has today issued its response to a request (no. P16-2025-001) from Ukraine's Supreme Court for an advisory opinion, under [Protocol no. 16](#) to the European Convention on Human Rights. The request concerned a dispute pending before Ukraine's Supreme Court between a monastery of the Ukrainian Greek Catholic Church and a former nun over her right to live in a convent owned by the monastery. She left the convent in 2017 in a context of conflict within the religious community.

Ukraine's Supreme Court notably asked the European Court of Human Rights to provide guidance on Convention issues arising in the case on, first, the right to reside in a monastery of a person who used to belong to a religious order and, secondly, whether the dispute should be resolved by the national courts or by the ecclesiastical courts.

The Court advised that a cell in a monastery or convent could be considered "home", within the meaning of Article 8 (right to respect for the home) of the European Convention read in the light of Article 9 (freedom of religion) of the Convention, for people who maintained sufficient and continuous links to those premises. If those links were solely based on religious grounds, then the status of those people within the religious community occupying the premises was particularly important.

As for the second question, the Court clarified that the issue of which type of court should have jurisdiction over the dispute was not governed directly by Article 6 § 1 (right of access to court) of the Convention. Rather, the relevant issue was whether or not the proceedings concerned a right that was recognised in national law. This was primarily for the requesting court to decide.

Overall, the Court stressed the importance of the principle of the autonomy of religious organisations in this context.

This was the first time a request for an advisory opinion came from a Ukrainian court; another [request](#), which was accepted for examination on 16 February 2026, is now under consideration.

Protocol No. 16 enables member States' highest national courts and tribunals to ask the Court to give advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the European Convention or its Protocols. Advisory opinions are not formally binding. The Court has now delivered [eight advisory opinions](#) since Protocol No. 16 came into force on 1 August 2018. For more information see the [FAQ](#).

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

The background to the case and the proceedings in the Ukrainian courts

The advisory opinion requested relates to a dispute pending before Ukraine's Supreme Court between a monastery of the Ukrainian Greek Catholic Church and F., a former nun.

F. was a member of an enclosed religious community of sisters from 2004. From 2011 her official place of residence was registered as the convent owned by the monastery.

F. left the convent in 2017, due to differences of opinion and conflict with the leaders of the religious organisation. She has since made several attempts to return, in vain because the locks have been changed.

F. has sought an order from the Ukrainian courts to be allowed to return, unobstructed, to her former cell. She has maintained that the religious organisation is preventing her use of those premises – arguing that she has no other housing and her belongings are still there.

The case has been through several stages. The lower courts upheld F.'s claim. They essentially found that the dispute could be examined by the civil courts and did not come under the religious organisation's internal affairs. The case is currently pending before Ukraine's Supreme Court, with the monastery arguing that the dispute should be treated as falling within the scope of canon, not national, law, and that the civil courts should not examine the case.

Ukraine's Supreme Court has stayed the proceedings before it and is now asking for guidance from the European Court on issues raised by the case.

Questions submitted in the advisory opinion request

"1. Do the premises of religious buildings – monasteries (monastic cells) – constitute a "home" within the meaning of Article 8 (right to respect for the home)?

2. Does the national court's jurisdiction extend to disputes concerning the right of a former nun to use the premises of a monastery, where such right arose from an oral agreement with the monastery based on its purpose and the nun's admission thereto, but was terminated as a result of the nun leaving the disputed premises due to a conflict and differences of opinion with the leaders of the religious organisation?"

The Court's opinion

As concerned the first question, the Court reiterated that the concept of "home" under the Convention depended on factual circumstances, namely whether someone had sufficient and continuous links with a specific place.

In determining such links, the Court advised, first, that it was particularly relevant whether there had been a basis in civil law for F. residing in the convent or whether her residence had been based solely on her status within the religious community as a nun. If the links were based on F.'s status as a nun, then the principle of the autonomy of religious organisations would be especially important for Ukraine Supreme's Court's assessment of the case.

Secondly, it pointed out that the nun's cell in issue was not an independent unit; it was an integral part of a monastery building which in turn could be viewed as the home shared by the members of the community. There was thus the possibility of conflicting claims to a home.

A third consideration for Ukraine's Supreme Court to take into account would be that a monastery had property rights, guaranteed under Article 1 of Protocol No. 1 to the Convention.

For these reasons, a person who had previously occupied a convent premises as a member of a monastic community but was no longer a member of that community should be central for assessing if there were "sufficient" links or not.

As concerned the Supreme Court's second question, the core legal issue was whether F. was entitled to have her claim determined by a court under Article 6 § 1 of the Convention.

The Court went on to highlight several previous cases that had raised a similar question. What had been decisive in those cases (and, indeed, in all Article 6 cases) was whether the proceedings concerned a "right" that was recognised, at least on arguable grounds, in national law.

It pointed out that whether or not there was a right was precisely what was being contested between the parties in the case before Ukraine's Supreme Court. The monastery argued that F.'s residence was not based on any legal right but on privilege under canon law, while F. maintained that the monastery granted her a civil "right for permanent residence."

That was a matter, however, for Ukraine's Supreme Court to resolve. The Court recommended that it should carefully examine and provide convincing reasons when deciding on this specific issue. The national-law provisions and case-law on the autonomy of religious organisations would be of particular relevance to this assessment.

If the national court concluded that, given the facts of the case and the relevant national law, F. could no longer argue that she had a "right" to the cell that she used to occupy, it would follow that it was not required, under Article 6 of the Convention, to determine the merits of her claim.

If Ukraine's Supreme Court decided, on the other hand, that F. could argue that she had a right under Ukrainian law and that the other conditions for applicability of Article 6 were also met, then she would, in principle, be entitled to having her claim determined in compliance with the right to a fair civil trial under the European Convention.

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Protocol No. 16 allows the highest courts and tribunals, as specified by the member States that have ratified it, to request advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the European Convention or its Protocols.

The aim of Protocol No. 16 is to enhance interaction between the Court and national authorities and thereby reinforce the implementation of Convention rights and freedoms by the requesting courts in their adjudication of pending cases.

An advisory opinion may only be sought in the context of a case pending before the requesting court. A panel of five judges decides whether to accept the request, giving reasons for any [refusal](#).

Advisory opinions, which are given by the Grand Chamber, are not formally binding.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.